IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Crl.Rev.Pet.No. 54 of 2005(C)

CRA.31/02 AND CRL.RP.8/02 OF II ADDL.SESSIONS COURT, THIRUVANANTHAPURAM
CC.180/98 OF JFCM-II, THIRUVANANTHAPURAM

REVN. PETITIONER: APPELLANT/ACCUSED/PETITIONER

DASAN CHAIRMAN-CUM-MANAGING DIRECTOR,
M/S. AANCY MARINE AND FARM
PRODUCTS EXPORTERS (P) LTD., POZHIYOOR,
NEYYATTINKARA TALUK, THIRUVANANTHAPURAM.

BY ADV. SRI.M.K.CHETTIAR

RESPONDENTS: RESPONDENTS/REV.PETITIONER/2ND REV.COUNTER PTR.

---

1. JOSEPHINE, T.C.NO.47/874,
ANU BHAVAN, POONTHURA P.O., THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.SUMAN CHAKRAVARTHY
PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 54 OF 2005 B

Dated this the 22nd day of August, 2007

O R D E R

The revision petitioner namely, Dasan described as the Chairman-cum-Managing Director of M/s.Aancy Marine and Farm Products Exporters Private Limited, challenges the conviction entered and the sentence passed against him by the JFCM-II, Thiruvananthapuram in C.C.No.180/98 as confirmed in Criminal Appeal No.31/02 on the file of the II Additional Sessions Court, Thiruvananthapuram.

2. The learned counsel for the revision petitioner evidently had no defence on the merits of the case. The only contention raised by him was that going by the complaint filed by the 1st respondent, the accused is a Company by name M/s. Aancy Marine and Farm Products Exporters Private Limited represented by its Chairman-cum-Managing Director Mr.Dasan. But the person who has been shown as the accused in the judgments of both the courts below is not the Company but Dasan, Chairman-cum-Managing Director of the said Company and consequently the sentence imposed is also one for imprisonment on Dasan. I

see some force in the said submission. Instead of the Company which alone is the accused in the private complaint filed by the 1st respondent, the courts below have not convicted the Company but instead, Dasan, the Chairman-cum-Managing Director, who was not prosecuted for the offence punishable under section 138 of the Negotiable Instruments Act. There appears to be a clerical mistake wherein instead of showing the Company as the accused, the revision petitioner Dasan has been shown as the accused resulting in the courts convicted him and imposing on him a sentence of imprisonment which is impermissible in the case of a Company. Therefore, the judgments under revision are set aside. The learned Magistrate shall rectify the proceedings by showing the proper person as the accused. I make it clear that the conviction recorded by the learned Magistrate is not interfered with since the same is founded on adequate material. The trial court shall pass a revised sentence after rectifying the cause title within one month from the date of receipt of a copy of this order. The parties shall appear before the trial court without any further notice on 10.9.07. After rectifying the cause title, the Magistrate shall hear the complainant as well as the accused Company and pass a

proper sentence according to law. The Magistrate shall also conduct an enquiry to find out the person who was responsible for altering the accused by deviating from the cause title of the complaint.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

aks